

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Regulation of Prepaid Calling Card Services	)	WC Docket No. 05-68

---

**COMMENTS OF SBC COMMUNICATIONS, INC.**

---

JACK ZINMAN  
GARY L. PHILLIPS  
PAUL K. MANCINI

Attorneys For:  
SBC COMMUNICATIONS, INC.  
1401 Eye Street, NW  
Suite 400  
Washington, D.C. 20005  
(202) 326-8911 – phone  
(202) 408-8745 – facsimile

April 15, 2005

## I. INTRODUCTION AND SUMMARY

SBC Communications, Inc., and its affiliated companies (collectively, SBC) respectfully submit the following comments in response to the Commission's *Prepaid Calling Card Order & NPRM*.<sup>1</sup> The most critical telecommunications issue facing the Commission is the comprehensive reform of its existing intercarrier compensation rules. Indeed, the Commission itself has acknowledged "the *urgent need* to reform the current intercarrier compensation rules,"<sup>2</sup> which Commissioner Copps has candidly described as "Byzantine and broken."<sup>3</sup> The Commission simply cannot afford to expend its scarce resources on less pressing intercarrier compensation issues -- such as the creation of new rules for prepaid calling card services -- until after it has finished the job of comprehensively reforming its existing intercarrier compensation rules, which it began almost four years ago.<sup>4</sup>

## II. DISCUSSION

### A. The Commission Should Devote Its Full Attention to Comprehensive Intercarrier Compensation Reform.

Intercarrier compensation reform is the single most important telecommunications issue pending before the Commission today. Back in 2001, the Commission recognized that the current patchwork of intercarrier compensation mechanisms creates numerous and substantial

---

<sup>1</sup> *Regulation of Prepaid Calling Card Services*, WC Docket No. 05-68, Order and Notice of Proposed Rulemaking, FCC 05-41 (released Feb. 23, 2005) (*Prepaid Calling Card Order & NPRM*).

<sup>2</sup> *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Further Notice of Proposed Rulemaking, FCC 05-33, at ¶ 3 (released March 3, 2005) (*Intercarrier Further Notice*) (emphasis added).

<sup>3</sup> Separate Statement of Commissioner Michael J. Copps, *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Further Notice of Proposed Rulemaking, FCC 05-33 (released March 3, 2005) (*Commissioner Copps Statement on Intercarrier Further Notice*).

<sup>4</sup> In fact, if the Commission successfully and comprehensively reforms its intercarrier compensation rules and adopts a unified approach to intercarrier compensation, it could obviate any need for service-specific intercarrier compensation rules addressing prepaid calling card services.

“opportunities for regulatory arbitrage”<sup>5</sup> because it treats “different types of carriers and different types of services disparately, even though there may be no significant differences in the costs among the carriers or services.”<sup>6</sup> The Commission launched a sweeping rulemaking to replace this intercarrier compensation hodgepodge with a “unified regime” that would “encourage efficient use of, and investment in, telecommunications networks, and the efficient development of competition” while “minimiz[ing] the need for regulatory intervention.”<sup>7</sup> As former Chairman Powell emphasized at the time, the *Intercarrier NPRM* is “critical to the continued development of economically efficient and sustainable competition in telecommunications.”<sup>8</sup>

In the Fall of 2004, the Intercarrier Compensation Forum (ICF) -- a diverse group of carriers from different segments of the telecommunications industry -- filed a detailed plan for comprehensive intercarrier compensation reform with the Commission.<sup>9</sup> The ICF plan was soon followed by a variety of reform proposals from other industry groups and state regulators.<sup>10</sup>

In response to these external proposals and its own internal staff analysis of various bill-and-keep mechanisms, the Commission launched a further notice of proposed rulemaking in February 2005, seeking additional comment on comprehensive intercarrier compensation reform.<sup>11</sup> The Commission remarked that the record before it confirmed an “urgent need” to

---

<sup>5</sup> *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Notice of Proposed Rulemaking, 16 FCC Rcd 9610 ¶ 11 (2001) (*Intercarrier NPRM*).

<sup>6</sup> *Intercarrier NPRM* ¶ 5.

<sup>7</sup> *Intercarrier NPRM* ¶ 2.

<sup>8</sup> Separate Statement of Chairman Michael K. Powell, *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Notice of Proposed Rulemaking, 16 FCC Rcd 9610 (2001).

<sup>9</sup> See Letter from Richard Cameron, counsel for ICF, to Marlene Dortch, FCC, CC Docket No. 01-92 (Oct. 5, 2004) (transmitting ICF plan). See also *Intercarrier Further Notice* ¶¶ 40-44.

<sup>10</sup> See *Intercarrier Further Notice* ¶¶ 45-59.

<sup>11</sup> *Intercarrier Further Notice* ¶¶ 1-4; Appendix C.

“replace the existing patchwork of intercarrier compensation rules with a unified approach.”<sup>12</sup>

The Commission further observed that its existing regulatory scheme for intercarrier compensation “is increasingly unworkable in the current environment and creates distortions in the marketplace at the expense of healthy competition.”<sup>13</sup> In a separate statement, Commissioner Copps candidly announced that the current intercarrier compensation system “is Byzantine and broken. . . . Intercarrier compensation is a must-do item for this Commission this year. It should be our number one telecommunications priority.”<sup>14</sup>

Less than a week after adopting the *Intercarrier Further Notice* and acknowledging the urgent need for a unified approach to intercarrier compensation, however, the Commission launched an entirely separate proceeding aimed at creating brand new rules that will govern the intercarrier compensation applicable to a specific type of service: prepaid calling cards. Specifically, on February 16, 2005, the Commission adopted the instant *Prepaid Calling Card Order & NPRM*, seeking comment on the “classification and jurisdiction of new forms of prepaid calling cards,” which, in turn, govern the intercarrier compensation applicable to calling card services.<sup>15</sup>

The genesis of this proceeding was a controversial petition filed by AT&T in May 2003, which asked for a declaration that its existing “enhanced” prepaid calling card services were interstate information services, and thus not subject to: (a) intrastate access charges, or (b)

---

<sup>12</sup> *Intercarrier Further Notice* ¶ 3.

<sup>13</sup> *Intercarrier Further Notice* ¶ 3.

<sup>14</sup> *Commissioner Copps Statement on Intercarrier Further Notice*.

<sup>15</sup> *Prepaid Calling Card Order & NPRM* ¶ 2.

universal service contributions.<sup>16</sup> In the *Prepaid Calling Card Order & NPRM*, the Commission rejected all of AT&T's arguments and declared that AT&T's existing prepaid calling card services were jurisdictionally mixed telecommunications services and thus subject to interstate and intrastate access charges (as well as universal service contributions).<sup>17</sup>

The Commission also observed, however, that AT&T had amended its petition to include two new variants of its prepaid calling card service.<sup>18</sup> Rather than addressing these new variants in the order, the Commission felt that -- despite having spent nearly two years deciding AT&T's petition -- "the public interest would best be served" if it initiated an entirely new rulemaking proceeding to examine how the new prepaid calling card services offered by AT&T, as well as any other prepaid calling card services not addressed in its order, should be regulated.<sup>19</sup>

In launching this separate rulemaking, the Commission fails to fully appreciate that the current controversy over intercarrier compensation for prepaid calling cards is merely a symptom of the much larger problems with the existing intercarrier compensation rules.<sup>20</sup> As the Commission pointed out in the *Inter-carrier Further Notice*, the Commission has multiple compensation regimes "based on jurisdictional and regulatory distinctions that are not tied to economic or technical differences between services. . . . These artificial distinctions distort the

---

<sup>16</sup> AT&T argued that, unlike traditional prepaid calling card services, its services were "enhanced" because they enable the customer to hear a pre-recorded advertising message during the call set-up process before the customer contacts the called party. *Prepaid Calling Card Order & NPRM* ¶ 6.

<sup>17</sup> *Prepaid Calling Card Order & NPRM* ¶¶ 13-33.

<sup>18</sup> *Prepaid Calling Card Order & NPRM* ¶ 38.

<sup>19</sup> *Prepaid Calling Card Order & NPRM* ¶ 38.

<sup>20</sup> In the *Prepaid Calling Card Order & NPRM*, the Commission did not mention intercarrier compensation reform, let alone explain how the *NPRM* would further the Commission's efforts at developing a unified intercarrier compensation regime.

telecommunications markets at the expense of healthy competition.”<sup>21</sup> Creating an entirely *new* set of rules just to address prepaid calling cards, without addressing the fundamental problems of the existing intercarrier compensation rules, will not further the Commission’s efforts to meet the “urgent need” for “comprehensive reform.”<sup>22</sup>

Rather than devoting scarce Commission resources to merely treating the symptoms of the intercarrier compensation malady (e.g., the current controversy over intercarrier compensation for prepaid calling cards), the Commission should turn its full attention to the root cause of that problem: the “Byzantine and broken” intercarrier compensation system.<sup>23</sup> And the Commission should do so immediately. The telecommunications industry and, more importantly, American consumers simply cannot continue to wait for the Commission to act on intercarrier compensation reform. Accordingly, SBC strongly urges the Commission to proceed as expeditiously as possible with *comprehensive* intercarrier compensation reform by adopting the ICF proposal, which will provide the long term stability necessary to fulfill Congress’s vision for a competitive, deregulatory telecommunications marketplace in the U.S.

---

<sup>21</sup> *Intercarrier Further Notice* ¶ 15.

<sup>22</sup> *Intercarrier Further Notice* ¶¶ 3, 28.

<sup>23</sup> *Commissioner Copps Statement on Inter-carrier Further Notice*.

### **III. CONCLUSION**

For all of the preceding reasons, SBC urges the Commission to devote its scarce resources to the expeditious adoption of the ICF plan for comprehensive intercarrier compensation reform.

Respectfully Submitted,

SBC COMMUNICATIONS INC.

By: /s/ Jack Zinman

JACK ZINMAN  
GARY L. PHILLIPS  
PAUL K. MANCINI

SBC Services, Inc.  
1401 Eye Street, NW  
Suite 400  
Washington, D.C. 20005

(202) 326-8911 – phone  
(202) 408-8745 – facsimile

Its Attorneys

April 15, 2005